

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.962 OF 2000

IN

COMPANY PETITION NO.558 OF 2000

Beccarose Perfumes and Beauty
Products Pvt.Ltd.

...Appellant.

vs.

Labhshubh Securities International
Ltd.

...Respondent.

Mr.S.U.Kamdar with Z.Jariwala i/b. Thakore Jariwalla
& Associates,for Appellant.

Dr.V.V.Tulzapurkar with Ms.Kusum Joshi i/b. M/s.Mulla
and Mulla & C.B.& C., for Respondent.

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 4th August, 2007.

P.C.:-

1. By this appeal, the appellant challenges the order passed by the learned Single Judge in Company Petition no.558 of 2000. The learned Single Judge has declined to admit the Company petition for winding up. The company petition was filed on the allegation that the respondent company is unable to pay its debts. According to the appellant, the debt of the appellant was admitted by the respondent-company. But the respondent-company disputed that it has admitted the liability at any point of time. It was claimed by the respondent that the letter on the basis of which the appellant was claiming that the claim has been admitted were obtained by applying force upon the respondent and they were issued under compelling circumstances and the letters do not disclose real nature of the

transaction. The learned Company Judge, therefore, has not admitted the petition. Thereafter, the appellant filed a summary suit no.3966 of 2002 wherein a summons for judgment no.401 of 2003 was taken out. That summons for judgment was disposed of by order dated 2.2.2005. The learned Single Judge who decided the summons for judgment held that the respondent-company has substantial defence to offer and therefore, it is entitled to unconditional leave to defend.

2. In our opinion, two factors, indicate that it is not necessary for us or it would not be in the interest of justice for this Court to interfere with the order passed by the learned Company judge that are (i) that in the summons for judgment taken out by the appellant, unconditional leave to defend has been granted to the respondent-company, and (ii) though the company petition was disposed of in the year 2000 till today the Company is carrying on its

business and is not even, according to the appellant, facing any financial problem apart from denial of liability to pay the debt claimed by the appellant. In our opinion, it would not be in the interest of justice to interfere with the order impugned in the appeal. The appeal is disposed of. No order as to costs.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)
